

	<h1>Montana Operations Manual</h1> <h2>Policy</h2>	Category	Human Resources/ Employee Benefits
		Effective Date	4/1/2020
		Last Revised	3/30/2021
Issuing Authority	Department of Administration State Human Resources Division		
Families First Coronavirus Response Act Policy			

I. Purpose

This policy outlines the State of Montana’s implementation of the Families First Coronavirus Response Act (FFCRA). The FFCRA requires the State of Montana to provide employees with Paid Sick Leave (PSL) and Expanded Family and Medical Leave Act (E-FMLA) Leave related to the COVID-19 pandemic.

The FFCRA **does not require** employers to provide full pay for all PSL and E-FMLA leave. **However, State employees are being provided full pay for all PSL and E-FMLA leave reasons.**

The FFCRA paid leave that was provided by federal law expired December 31, 2020. Federal law allows, but does not require, employers to extend paid sick leave and emergency family and medical paid leave to employees. This policy can be revised, changed, or rescinded at any time within the requirements of the FFCRA.

II. Scope

This policy covers Montana’s executive branch employees, except those employed by the Montana State Fund, the Montana university system, elected officials, the personal appointed staff of elected officials, and other employees exempt from policy under §§ [2-18-103](#), [-104](#), and [-601](#)(6), MCA.

This policy does not diminish benefits the employee is entitled to under other laws, collective bargaining agreements, or other employer policies. Agencies shall follow the provisions of this policy.

III. Paid Sick Leave (PSL)

A. Eligibility

PSL is available for immediate use by executive branch employees.

B. Qualifying Reasons for PSL

Under the FFCRA, an employee qualifies for paid sick time if the employee is unable to work (**or unable to telework**) due to a need for leave because the employee:

1. is subject to a Federal, State, or local quarantine or isolation order related to COVID-19;
2. has been advised by a health care provider to self-quarantine related to COVID-19;
3. is experiencing COVID-19 symptoms and is seeking a medical diagnosis;
4. is caring for an individual subject to an order described in (1) or self-quarantine as described in (2);
5. is caring for a child whose school or place of care is closed (or childcare provider is unavailable) for reasons related to COVID-19; or
6. is experiencing any other substantially similar condition specified by the Secretary of Health and Human Services, in consultation with the Secretaries of Labor and Treasury.

C. PSL Benefits

- i. Full-time eligible employees are entitled to a maximum of 80 hours of PSL. Full-time employees are also entitled to a maximum of 80 hours of previously available COVID-19 sick leave. No full-time employee may use more than a combined maximum of 160 hours of PSL and previously issued COVID-19 leave.

For example, if an employee used 30 hours of COVID-19 sick leave prior to April 1, 2020, the employee has 130 hours of paid PSL/COVID-19 sick leave available.

- ii. Part-time employees are entitled to a prorated total of paid PSL/COVID-19 leave based on the average number of hours worked in a pay week not to exceed the average number of hours that employee works in a four-week period.

For example, if an employee averages 20 hours per week, the employee is eligible for a combined total of 80 hours of PSL/COVID-19 sick leave.

- iii. PSL is not paid if the employee separates from employment.
- iv. PSL may be used intermittently in 30-minute increments provided the employee and manager agree.

- v. PSL may be used intermittently only if an employee is teleworking. Unless the employee is teleworking, once the employee begins taking PSL for PSL qualifying reasons 1, 2, 3, 4, or 6 outlined above, the employee must continue to take PSL each day until the employee has used the full amount of PSL or no longer have a qualifying reason for taking PSL. This limit is imposed because if the employee is sick or possibly sick with COVID-19 or caring for an individual who is sick or possibly sick with COVID-19, the intent of FFCRA is to provide such PSL as necessary to keep the employee from spreading the virus.

D. Recording Leave

Employees must accurately record PSL on their timesheets using the Time Reporting Codes as outlined below. Managers must verify and approve that each employee's reporting of the PSL is accurate based on the reasons established in this policy.

When using PSL for reasons 1 through 4 and 6 defined in *B. Qualifying Reasons for PSL* above, use Time Reporting Code: **COVID – COVID-19 Sick Paid Leave**.

When using PSL for reason 5 to care for a child under the age of 18 whose school or childcare provider is closed or unavailable during the first two unpaid weeks of E-FMLA, use Time Reporting Code: **COVSC – COVID-19 School Closure Paid Leave**.

E. Notice

An employee shall notify the employee's manager as soon as practicable when the need for PSL leave is foreseeable.

IV. Expanded Family and Medical Leave Act (E-FMLA)

A. Eligibility

E-FMLA leave is available for immediate use by executive branch employees.

B. Qualifying Reasons for Leave

An eligible employee is entitled to use E-FMLA leave if the employee **is unable to work or telework** because the employee is caring for the employee's child (under 18 years of age) whose school or place of care is closed (or childcare provider is unavailable) due to COVID-19-related reasons.

C. Leave Benefits

- i. A full-time employee is eligible for up to 12 weeks of leave at 40 hours a week, and a part-time employee is eligible for leave for the number of hours that the employee is normally scheduled to work over that period.
- ii. The first two weeks (10 workdays) of E-FMLA leave are unpaid. However,

an employee may use available PSL for the first two weeks (10 workdays) of E-FMLA if the employee has not already used the full 80 hours of PSL for one of the other eligible reasons. An employee may elect to substitute other accrued paid leave during this two-week period.

- iii. Leave may be used intermittently in 30-minute increments provided the employee and manager agree.
- iv. An employee is entitled to a combined total of 12 weeks of “traditional” FMLA and E-FMLA in a 12-month period. Any amount of “traditional” FMLA leave an employee uses in that same 12-month period reduces E-FMLA entitlement. For example, if during an applicable FMLA 12-month period an employee takes 4 weeks of “traditional” FMLA leave, the employee has 8 weeks of E-FMLA leave left to use in that same 12-month period.

D. Recording Leave

Employees must accurately record E-FMLA on their timesheets using the Time Reporting Code **COVSC – COVID-19 School Closure Paid Leave**. Managers must verify and approve that each employee’s reporting of the E-FMLA is accurate based on the reasons established in this policy.

E. Notice

An employee shall notify the employee’s manager as soon as practicable when the need for E-FMLA leave is foreseeable.